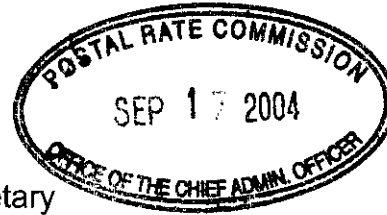




September 8, 2004



Honorable Steven W. Williams, Secretary
Postal Rate Commission
1333 H Street, NW, Suite 300
Washington, DC 20268-0001

Dear Mr. Williams:

This responds further to your letter to Mr. Foucheaux of June 22 regarding the provision of materials underlying the Fiscal Year 2003 Cost and Revenue Analysis (CRA) and Cost Segments and Components (CSC) Reports. Mr. Foucheaux responded initially on July 6. He provided a significant portion of the materials, and indicated that a further response was pending consideration by Postal Service management.

Your letter of June 22 stated that the Postal Service has failed to provide to the Commission several items that should be furnished under the Commission's rules for periodic reports. The Commission recently amended these rules by substantially expanding the scope and amount of material to be furnished routinely in connection with the Postal Service's public CRA and CSC Reports. The Postal Service publishes these reports each year. They provide the Commission and the public detailed analyses and data concerning cost, volumes, and revenues for all domestic mail and special services. Under the recent rule changes, the Postal Service would provide, not only the CRA and CSC Reports, but a substantial amount of input data, computer programs, and underlying information used in the production of the reports. This newly-required material parallels the data and information required or expected to be filed in formal litigation when the Postal Service initiates rate cases before the Commission. Such cases are conducted under controlled conditions governed by federal administrative law and the Commission's rules of practice and procedure. By contrast, the Commission has expressed its intention to place all periodic reporting information on its Internet Web site, even when no case is pending. Your letter states that these changes would serve the dual purposes of allowing members of the public to review and evaluate routine financial and operating reports, and of facilitating "the independent study of postal cost behavior between rate cases."

In considering the amendments when they were first proposed, the Postal Service opposed the expanded requirements on grounds that they were inconsistent with the statutory scheme governing the Postal Service. The Postal Reorganization Act (PRA) created a carefully-designed balance of authorities between the Postal Service and the Commission. On one hand, the PRA embodied, as a bedrock principle, the expectation that the Postal Service would have the authority to perform its important functions with the freedom and flexibility normally enjoyed by a modern business. The freedom not to have to publish commercial information that would not be disclosed under good business practice, and the freedom not to have to disclose prematurely information prepared for use in its formal ratemaking proceedings represent two important elements of the statutory scheme.

On the other hand, the PRA created the Commission as partner to the Postal Service to assist in the development of postal rates and classifications. The Commission's proceedings are conducted under statutory standards and limitations, and under rules developed in accord with federal procedural law and principles, including protections against premature and unregulated disclosure of commercial and other sensitive material. Moreover, Congress specifically recognized that, in making the Postal Service more "businesslike," provision had to be made for the protection of commercially sensitive information and information prepared for use in rate proceedings. Accordingly, while preserving the applicability of the Freedom of Information Act to the Postal Service, sections 410(c)(2) and (c)(4) of Title 39 exempt the Postal Service from any duty to disclose information when such disclosure would not be consistent with good business practice or would prematurely disclose rate case materials.

In practice, the Postal Service routinely makes public substantial amounts of information about its operations and finances that most firms in competitive environments would not think of disclosing in the normal course of business. The CRA and CSC Reports are good examples. They make public a level of detail concerning product cost data and information by detailed operation, as well as revenue and volume data by product that most businesses do not even compile, let alone make publicly available, especially to their competitors. The additional information the Commission now seeks goes well beyond this level of detail.

The Commission's rules governing periodic reports have evolved as a practical bridge between the Commission's needs in rate cases and the Postal Service's needs in the business environment. The PRA itself has never explicitly authorized the periodic reporting that the Commission has outlined in its rules. For the most part, however, up to now, the periodic reporting rules have largely respected the balance so carefully crafted in the statutory scheme between business freedom to avoid premature and unwarranted disclosure of sensitive commercial information, on one hand, and ratemaking, on the other.

The recent amendments to the periodic reporting rules eradicate that balance in important respects. In large part, they convert filing requirements and discovery requests in rate cases into ongoing obligations to provide background materials for published reports on a yearly basis, even in the absence of a request for changes in rates and fees. In this regard, it is important to note that disclosure of the results of the analyses and aggregate cost, volume, and revenue data for postal services is not at issue. The Postal Service would provide those in the CRA and CSC Reports in any event, both as periodic reports to the Commission, and through the Postal Service's own Internet Web site. The Postal Service would also continue to provide a variety of information to various public entities, such as the General Accounting Office, the Inspector General, and the Congress, as currently required by statute.

The new amendments, however, require provision of input data and computer programs, as well as a level of financial and operational detail that would only be needed for rate case-type review, or for the conduct of "independent study of postal cost behavior," as the Commission now characterizes its objectives. Furthermore, while furnishing some materials to the Commission, or an explanation of changes since the last rate case, might have utility in the context of Commission readiness to consider future requests for rate recommendations, the Commission would indiscriminately place all of the materials on the Internet. Not only would mandatory disclosure of such materials be inconsistent with the protections in the PRA for commercial information when it is not required in rate cases, it simply would not be necessary. The Commission has not satisfactorily explained why, now, after many years of the Postal Service providing limited information under the old periodic reporting rules, this additional material needs to be publicly available through the Internet.

In this regard, we note that the Commission's June 22 letter referred to input data and programs for a carrier cost study conducted by the Postal Service to improve the information used to allocate city carrier costs to mail services. The results of this study have not yet been presented for review or use in a rate case, yet the Postal Service voluntarily presented a public briefing explaining the study's methodology and results at the Commission in December of 2003. When the Commission requested that it be furnished data and computer programs underlying the study, in February of this year, the Postal Service offered to make such materials available to the Commission, or to any interested member of the public. It merely requested that the Postal Service remain the source of the information, and that inquiries from the public to have access be directed to it, rather than having the materials placed on the Commission's Internet Web site. The Commission did not respond to this offer, nor did any member of the public request the materials.

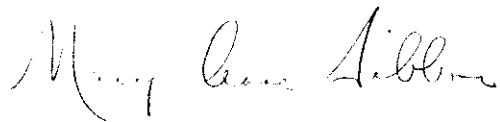
Rather, the June 22 letter directed the Postal Service to provide the carrier cost study materials to the Commission, and it mischaracterized the Postal Service's

offer as a "non-public procedure." The Postal Service provided the materials in its July 6 response, but renewed its request that it remain the source of public disclosure, so that it could more effectively respond to reasonable inquiries concerning the study. The Commission, however, promptly made the materials available at its Internet Web site. The Commission's disregard of the Postal Service's reasonable condition for public disclosure is disappointing.

Neither the Postal Service nor the Commission should ignore the current statutory scheme that permits the Postal Service to conform to good business practice in disclosing data, and to protect other materials from premature disclosure. In the past, the Postal Service has suggested that it would be worthwhile for the Postal Service and the Commission to explore measures that might control dissemination of, or protect sensitive commercial and other information, if the information is to be produced as periodic reports. So far, the Commission has not been willing to discuss such measures. The Postal Service remains open to such a dialogue on the subject.

Absent progress toward that objective, however, the Postal Service must respectfully decline to provide the balance of the materials the Commission identified in the letter of June 22.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary Anne Gibbons".

Mary Anne Gibbons

cc: Mr. Potter